



State of Utah

Department of Natural Resources

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Division of Oil, Gas & Mining

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Division Director

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Governor

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Lieutenant Governor

September 2, 2005

CERTIFIED RETURN RECEIPT 7002 0510 0003 8603 4179

William Bown
Bonneville Quarries Inc.
842 West 400 North
West Bountiful, Utah 84087

Subject: Reassessment for State Cessation Order No. MC-05-01-07(1), Dove Creek Quarry (M/003/016), Box Elder County, Utah

Dear Mr. Bown:

The proposed civil penalty assessment for the above referenced cessation order was sent to you on August 12, 2005. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R647-7-105, the penalty is to be reassessed when it is necessary to consider facts which were not reasonably available on the date of the issuance of the proposed assessment. Following is the reassessment of the penalty for the cessation order:

- MC-05-01-07-01- Violation 1 of 1 \$660

The enclosed worksheet specifically outlines how the violation was assessed.

Under R647-7-106, there are two informal appeal options available to you:

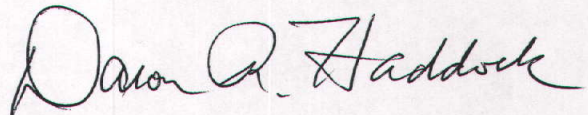
1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty

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(30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

A handwritten signature in black ink that reads "Daron R. Haddock". The signature is fluid and cursive, with the first name "Daron" being more prominent than the last name "Haddock".

Daron R. Haddock
Assessment Officer

DRH:jb
Enclosure: Worksheets
O:\M003-BoxElder\M0030016-DoveCreek\non-compliance\REAssessmentLetterCO.doc

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to obtain a permit from the Division of Oil Gas and Mining prior to conducting mining operations. Acreage has been disturbed at this location without revising the permit to do so. While the Operator has a permit for a large mine, which allowed disturbance up to a certain area, the operation has expanded onto lands which he is not authorized to mine (approximately 1.5 acres). A previously reclaimed road has also been reopened. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that the operator has disturbed approximately 1.5 acres of land that had not been approved for disturbance. The damage was the loss of resources and soil on the area disturbed. Further discussion with the inspector revealed that the damage is probably temporary. While much of the soil and vegetation have been disturbed, the site could still be reclaimed. While the damage is extensive over the 1.5 acres, it probably does not leave the site. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the mine was being operated on a contract basis by Dove Creek Quarries, Inc. The Operator did not keep close contact with the contractor to assure that he was staying within the permitted area. This indicates indifference to the rules or lack of reasonable care. A prudent operator would understand the need to keep within the approved boundaries and provide a revised NOI prior to disturbing additional area. The Operator was negligent in this regard, thus the assignment of points in the middle part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

*** *The abatement for this violation is considered difficult because it required plans to be submitted. The original abatement was due on August 1, 2005 but since plans were required, that needed to be coordinated with the US Forest Service, the abatement was extended to September 2, 2005. Even though an extension was required, the operator was fairly diligent in achieving compliance because of the coordination that was required. The plans were submitted on August 25, 2005, which was ahead of the September 2, 2005 deadline. Even though an extension was required, normal compliance is considered the appropriate category because of the difficulty in providing maps and plans. An extension was requested and approved and the plans submitted ahead of the extended deadline. Ten good faith points are awarded which is the upper end of the normal compliance range.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-04-02-01(1)</u>		
I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>28</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>26</u>

TOTAL ASSESSED FINE \$660

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